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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
JONES, PRENELL P	
ART UNIT	**PAPER NUMBER**
2616	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/674,717	BRISCOE ET AL.	
	Examiner	Art Unit	
	Prenell P. Jones	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 August 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13,15,16,18-26 and 29-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *36* is/are allowed.

6)☒ Claim(s) *1-13,15,16,18-26 and 29-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *9/1/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Response to Arguments

1. Applicant's arguments with respect to claims 1-13,15,16 and 18-36 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claim 9 is objected to because of the following informalities: Applicant is claiming in line 4, "monitors in addition the or each further channel", which is not clear as to what Applicants is claiming. Examiner questions if Applicant has made a typographical error. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claim 18-22, 29 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 18, Applicant is claiming in line 4, "calculating at the user terminal ***using the tariff data a charge for traffic communicated between the network and the terminal and making a payment***," which is unclear as to what Applicant is claiming.

Regarding claim 29, Applicant is claiming in line 6, "***and for the sampled traffic*** comparing the network usage", which is unclear to Examiner as to what applicant is claiming. Claim 35 depends of claim 29, so claim 35 is rejected as well.

5. Claims 19-22 and 34 recites the limitation "amending the user status" in line 7. There is insufficient antecedent basis for this limitation in the claim. Claims 20-22 and 34 depend on claim 19, therefore, claims 20-22 and 34 are rejected as well.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 8, 9 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voit et al (US Pat 6,430,275) in view of Szybicki (US Pat 4,756,019).

Regarding claim 1 and 23-25, Voit et al (US Pat 6,430,275) discloses enhanced inter-network Internet telephony communication system, wherein the architecture includes a distributed database for account managing associated with utilizing resources, such as billing, pricing and negotiating billing algorithm (Abstract, Fig. 3), and each customer/subscriber is provided customer account within packet switched network which includes billing, wherein during the set-up of a call authorization and negotiation associated with billing/pricing algorithm

is utilized (col. 5, line 3-60, col. 6, line 2-56), distributed database passes pricing algorithm to users and network (Fig. 5, col. 11, line 39-49. Voit is silent on routing/distributing to multiple users and the tariff algorithm calculating a charge as a function of loading. However, in a network management system, Szybicki (US Pat 4,756,019) discloses traffic routing in a multi-node environment and network management of resources in a telecommunication environment wherein routing policies including tariff algorithms are routed to a plurality of nodes (SPC nodes/users/subscribers), whereby the tariff algorithm is a function of load/capacity (col. 4, line 48 thru col. 6, line 67, col. 11, line 39 thru col. 15, line 65). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to be motivated to implement routing in a multi-node environment, and a tariff algorithm that calculate charges based on loading of network as taught by Szybicki with the teachings of Voit for the purpose of further managing resource utilization as to minimize contention.

Regarding claims 8 and 9, as indicated above, the combined teachings of Voit and Szybicki discloses managing resource utilization with respect to tariff/charging algorithms in a multi-subscriber environment. Although Voit is silent on identifying links/channel at user device as associated with a tariff, Szybicki discloses identifying communication links and channels associated with user nodes, which are utilized in the tariff calculations (Fig. 2, col. 4, line 32 thru col. 8, line 67). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to be motivated to implement identifying communication links/channels as part of tariff processing as taught by Szybicki with the teachings of Voit for the purpose of further managing resources in a communication environment as to minimize contention in a multi-user environment.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Voit et al (US Pat 6,430,275) in view of Szybicki (US Pat 4,756,019) as applied to claim 1 above, and further in view of Itou et al (US Pat 5,982,754).

Regarding claim 3, as indicated above, the combined teachings of Voit and Szybicki discloses managing resource utilization with respect to tariff/charging algorithms in a multi-subscriber environment. Voit and Szybicki fail to teach or disclose distributing tariffs to user devices via multicasting. However, in another communication system that utilizes charging calculations in managing system resources among multiple users, Itou discloses routing charging metering cells to a plurality of subscribers by way of multicasting (Abstract, col. 3, line 5-45, col. 9, line 30-40). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to be motivated to implement distributing tariffs to user terminals via multicasting as taught by Itou with the combined teachings of Voit and Szybicki for the purpose of further managing resources in a communication environment that utilize charging algorithms as to minimize contention.

6. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voit et al (US Pat 6,430,275) in view of Szybicki (US Pat 4,756,019) as applied to claim 1 above, and further in view of Wulkan et al.

Regarding claims 4-7, as indicated above, the combined teachings of Voit and Szybicki discloses managing resource utilization with respect to tariff/charging algorithms in a multi-subscriber environment. However, Voit and Szybicki are silent on revising/updating tariff. In analogous art, Wulkan discloses (Abstract, Figs. 3, 5-11) a telecommunication call management

system wherein the architecture includes (pg. 5, line 15-30) carrier selection database, utilizes Internet, (pg. 7, line 18-30, pg. 11, line 13-28, pg. 22, line 12 thru pg. 23, line 30, pg. 25, line 26 thru pg. 29, line 32) includes an updating mechanism, updating tariff information/databases (revising tariff), a plurality of subscribers (terminals), (pg. 7, line 12 thru pg. 8, line 21) updating a plurality a data servers which holds a geographically based tariff data of service providers, tariff server includes performance data, billing parameters, cost router, calculate cost (tariff), and the data server distributes tariff data computers, tariff data server provided for monitoring/updating changes in telephone service provider tariffs and downloading a database of tariff data to computers. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to be motivated to implement revising tariffs and distributing the revises tariffs to customer terminals as taught by Wulkan with the combined teachings of Voit and Szybicki for the purpose of further managing services provided to customers with respect to usage charging associated with communicating resources, whether it be voice, packet or other forms of data.

7. Claims 2, 13, 15, 16, 23-26 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voit et al (US Pat 6,430,275) in view of Szybicki (US Pat 4,756,019 as applied to claims 1 and 3 above, and further in view of Saari et al.

Regarding claims 2, 13, 15, 16, 23-26 and 33, as indicated above, Voit et al (US Pat 6,430,275) discloses enhanced inter-network Internet telephony communication system, wherein the architecture includes a distributed database for account managing associated with utilizing resources, such as billing, pricing and negotiating billing algorithm (Abstract, Fig. 3), and each customer/subscriber is provided customer account within packet switched network

which includes billing, wherein during the set-up of a call authorization and negotiation associated with billing/pricing algorithm is utilized (col. 5, line 3-60, col. 6, line 2-56), distributed database passes pricing algorithm to users and network (Fig. 5, col. 11, line 39-49. Voit further discloses that the gateway negotiates billing algorithm for passing to subscriber as well as reporting usage data and statistics used in billing algorithm (Abstract). Szybicki (US Pat 4,756,019) discloses traffic routing in a multi-node environment and network management of resources in a telecommunication environment wherein routing policies including tariff algorithms are routed to a plurality of nodes (SPC nodes/users/subscribers), whereby the tariff algorithm is a function of load/capacity (col. 4, line 48 thru col. 6, line 67, col. 11, line 39 thru col. 15, line 65). However, Voit and Szybicki are silent in communicating a formula for calculating charge usage along with a separate formula for coefficients used calculating coefficients used in charge usage formula. In analogous art, Saari discloses (Abstract, Figs. 1-3, 6-12, 14, col. 4, line 4 thru col. 8, line 28) determining charges for usage of a network connection whereby the architecture includes ATM network environment, fixed tariff/billing charge, communicating packet data, multiple nodes, billing unit used for computing connection usage charge, fixed rate/variable rate billing schemes, possible factors used as variables associated with usage charge formula include service type, QoS, ATM parameters, connection time, other traffic flow parameters, (col. 14, line 5 thru col. 26, line 21) usage charge formula consist of various coefficients and formulas for computing the various variables/coefficients, (fig. 6, col. 11, line 56 thru col. 12, line 7, col. 17, line 60 thru col. 18, line 51, col. 21, line 42 thru col. 24, line 67) detecting load levels/load status, furthermore Saari suggest that the Internet can also be implemented. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to implement separate/multiple formulae for calculating network service charges and its associated multiple variables/coefficients/factors as taught by Saari with the

combined teachings of Voit and Szybicki for the purpose of further managing network resources along with analyzing network usage in a communication system in a communication system that utilize pricing algorithms.

8. Claims 11, 12, 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voit et al (US Pat 6,430,275) in view of Szybicki (US Pat 4,756,019 as applied to claim 1 above, and further in view of Okamoto (US PAT 4,796,297).

Regarding claims 11, 12, 30 and 32, as indicated above, the combined teachings of Voit and Szybicki discloses managing resource utilization with respect to tariff/charging algorithms in a multi-subscriber environment. Both Voit and Szybicki are silent on encrypting/decrypting usage charges. In analogous art, Okamoto discloses (Abstract, 1-16b, col. 7, line 3 thru col. 9, line 58, col. 11, line 12 thru col. 12, line 39) calculating billing charges associated with usage of network services, multiple subscribers, communicating packet data, encryption/decryption unit, encrypt charge into a check code. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to be motivated to implement billing charges as taught by Okamoto with the combined teachings of Voit and Szybicki for the purpose of further managing and maintaining some kind of security associated with customer billing/usage charge with respect to resources provided.

Allowable Subject Matter

9. Claim 36 is allowed over prior art.

10. The following is a statement of reasons for the indication of allowable subject matter: Although the combined prior art discloses managing resource utilization with respect to

tariff/charging algorithms in a multi-subscriber environment, wherein tariff algorithm and coefficient data used in cost calculations are provided independently to user, and processing of encrypted and decrypted tariffs are utilized, they fail to teach or suggest with respect to claim 36, a tariff comprising of a variable formula for calculating a charge as a function of a detection congestion level, and automatically calculating using the tariff charge for a customer terminal of the network in response to the detected congestion level.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prenell P. Jones whose telephone number is 571-272-3180. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Prenell P. Jones

December 19, 2006

CHI PHAM
SUPERVISORY PATENT EXAMINER
12/22/06